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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/064,289	06/28/2002	Charles Edward Kuhlmann	RAL920010029	4433

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EXAMINER

MELWANI, DINESH

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 12/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/064,289

Applicant(s)

KUHLMANN ET AL.

Examiner

Dinesh N Melwani

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 6) ☐ Other: _____

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DETAILED ACTION

Acknowledgment is made of Applicant's submission of:

Amendment A filed on 10/20/03

The aforementioned item has been noted and officially inserted into the application.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Henson (U.S. Patent No. 6,167,383) in view of Salvo *et al.* (U.S. Patent No. 6,341,271). Henson discloses a method and computer program for optimizing a product order where the product includes at least one customer-selectable component, the method comprising the steps of: receiving the product order (col. 4, lines 41-43), determining component information by querying a manufacture, and offering the customer at least one order option in real time. Henson does not adequately disclose how the delay determination is made and what data the determination is based on. Salvo discloses an inventory management system that automatically monitors inventory amounts, provided information concerning inventory, and decides if an order for replacement inventory should be placed. Salvo also teaches that after an order is placed automatically to a supplier the progress for the delivery of replacement is automatically monitored, see Abstract. Therefore, it

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would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the teachings of Salvo, in regards to a monitoring delivery of a component, to allow Henson to utilize this information in determining component information in real-time by querying a manufacturer (see Henson) and, in response to a component being unavailable at the manufacturer, querying at least one supplier in real time that can supply the component to the manufacturer and automatically place an order. . In regards to claims 2 and 10, Henson's component information includes component cost and component delivery lag time. As it concerns claims 3, 11, and 18, Henson's one option includes offering the customer an alternative component (i.e., as indicated by the "pull-down" arrows in Fig. 3A). In regards to claims 5 and 13, Henson further discloses the step of scheduling a product delivery schedule with a shipper system; see Fig. 9 and col. 12, lines 40-64. In regards to claims 6, 7, 14, and 15, Henson's method and program determines the manufacturing site based on the manufacturing site capacity. In regards to claims 8 and 16, Henson's method and program further includes the step of confirming one of customer product fulfillment conditions by allowing the customer to "checkout" by paying and specifying shipping information. In regards to claims 4, 12, and 19, Henson discloses a method for optimizing a product order substantially as claimed; wherein said method provides real-time component information from the manufacturer to the consumer. However, Henson is silent to the exact method the manufacturer uses to obtain said components from its suppliers. Salvo discloses an inventory management system that includes the steps of monitoring the manufacturer's inventory supply in real-time to determine if a component is unavailable, determining an appropriate supplier and placing an order for the component, see col. 11, lines 18-37. Therefore, it would have been obvious to one having ordinary skill in the art at

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the time the invention was made to utilize the teachings of Salvo, in regards to a real-time inventory monitoring system that automatically re-orders unavailable inventory, to modify Henson such that lowest total cost purchasing, ordering, and delivery of inventory would be achieved and thereby further increasing the efficiency of Henson's online store.

Response to Arguments

2. Applicant's arguments filed 10/20/03 have been fully considered but they are not persuasive.

3. Applicant's arguments with respect to claims 1-3, 5-11, 13-18, and 20 have been considered but are moot in view of the new ground(s) of rejection.

4. The Examiner notes, as rejected above, that the Henson-Salvo combination discloses a method of optimizing a product order wherein said method includes determining component information in real-time by querying a manufacturer system (see Henson) and, in response to a component being unavailable (i.e., analogous to automatically monitoring inventory amounts) at the manufacturer, querying at least one supplier in real time that can supply the component and determine the lead time for said component.

5. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

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In this case, it would have been obvious to combine the teachings of Salvo with Henson, since Henson discloses the use of delivery time information and providing such information to the customer of the manufacturer by monitoring delivery time of a component. Henson fails to adequately disclose this process. Therefore, it would have been obvious to one having ordinary skill in the art to utilize the teachings of Salvo of providing the required information to Henson.

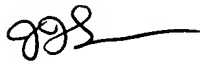
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dinesh N Melwani whose telephone number is 703-305-4546. The examiner can normally be reached on M-F, 8:30-6 except every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on 703-306-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9326.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-4115.

DNM


J. J. SWANN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600